



ID# 1701
SW

STEVEN C. HILBIG
BEXAR COUNTY CRIMINAL DISTRICT ATTORNEY
BEXAR COUNTY JUSTICE CENTER
300 DOLOROSA, SUITE 5072
SAN ANTONIO, TEXAS 78205-3030
(512) 220-2311

RECEIVED

FEB 19 91

Opinion Committee

RQ-37
February 15, 1991

Honorable Dan Morales
Attorney General Of Texas
Supreme Court Building
P. O. Box 12548
Austin, Texas 78711-2548

Attn: Sarah Woelk
Opinion Committee

Re: ID# 10824

Dear Ms. Woelk:

Pursuant to your letter of October 18, 1990 and our subsequent conversation, enclosed please find a brief on the issues of whether U.S. Savings Bonds and Certificates of Deposit are "money" and therefore prohibited as raffle prizes by the Charitable Raffle Enabling Act.

I will look forward to a response to our request for an opinion.

Sincerely,

Kelsey Menzel

KELSEY MENZEL
Assistant Criminal District Attorney
Civil Section
300 Dolorosa, 4th Floor
San Antonio, Texas 78205-3030
(512) 220-2139

KM/fc
encl.

BRIEF

Issues:

- (1) Is a US Savings Bond "money" and therefore prohibited as a raffle prize by Section 3(f) of the Charitable Raffle Enabling Act, Article 179f, V.A.T.S.?
- (2) Is a Certificate of Deposit "money" and therefore prohibited as a raffle prize by Section 3(f) of the Charitable Raffle Enabling Act?

The Charitable Raffle Enabling Act, Article 179f, V.A.T.S., states in Section 3(f): "A prize offered or awarded at the raffle may not be money." The Act, however, offers no definition for the term "money". It is unclear from reading the statute in its entirety what the purpose of the restriction is, and the caption offers no help in this regard.

The operation of a raffle not authorized by Article 179f appears to be a criminal offense, i.e., gambling promotion, but Chapter 47 of the Texas Penal Code, which covers gambling, also give no definition of money.

Because Article 179f does not define money, the common meaning should be determined. Webster's New Collegiate Dictionary defines money as "something generally accepted as a medium of exchange, a measure of value or means of payment," criminal cases have more narrowly defined money as "the legal tender, metallic coins or legal tender currency of the United States." Rogers v. State 448 S.W.2d 465 (Tex. Crim. App. 1970); Thompson v. State, 34 S.W. 629 (Tex. Crim. App. 1896). In a will case, the Supreme Court stated:

The word "cash" in its strict sense refers to coins and paper money. It is also used, less strictly, to mean not only money but also checks and demand deposits in banks and savings institutions. See Thompson v. Thompson, 149 Tex. 632, 236 S.W.2d 779; Webster's New International Dictionary, 2nd ed. 1940.

Additionally, negotiability and liquidity may have some relevance. Many CD's are not negotiable, and US Savings Bonds cannot be cashed in for six months from the date of issue.

In conclusion, neither CD's nor Bonds are money in the strictest sense, but could fit a broader definition. This office takes no position on these issues; we merely seek the answers.